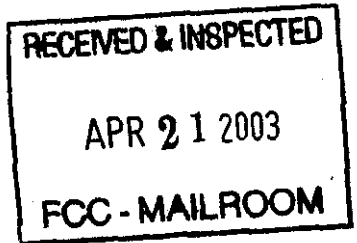


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Heartland-COG/North Central Ohio Computer Cooperative
1495 W. Longview Ave. Suite 100
Mansfield, OH 44906
Voice: (419) 747-8660
Fax: (419) 747-0600
Web: <http://nYwww.ncocc-klZ.org/>

April 11, 2003

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

CC Docket Nos. 9645 and 97-21
Request for Waiver

Dear Sirs:

This is a letter of appeal for waiver for Funding Year 2001. On February 9, 2003, the North Central Ohio Computer Cooperative (NCOCC) sent its letter of appeal to the Schools and Libraries Division in Whippany, New Jersey. The date of the Funding Commitment Decision Letters from the SLD was December 11, 2002. These FCDL's denied funding on the FRN's listed below on the basis that NCOCC did not show proper evidence of consortium authority. In reading the procedures for appeal to the SLD, NCOCC determined February 9, 2003, to be the final date for postmark of an appeal of the SLD's decision. NCOCC **based its** final date on the information provided on the SLD website. The program indicates deadlines for many different submissions to the SLD. All of these submissions are based on the **words** "postmarked on or before" a certain date. However, the submission of an appeal is an exception. It must be

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Letter of Appeal
Page Two
April 10, 2003

received "within" a 60-day time frame. NCOCC interpreted the appeals deadline on the same basis as all other deadline requirements utilizing the postmark date. For example, "All Forms 471, including certifications, received or postmarked by *the close* of the application filing window are *considered* as if they had arrived on the same day".

Therefore, NCOCC requests the FCC issue a deadline waiver to NCOCC for this appeal. In addition, NCOCC requests the FCC to direct the SLD to review the E-Rate program language regarding deadlines for their consistency and apply necessary corrections to assure.

The text of the original appeal document follows.

Contact Information:

Marcia Meeker
North Central Ohio Computer Cooperative
1495 West Longview Avenue, Suite 100
Mansfield, Ohio 44906
Marcia@ncocck12.org

Appeal Information and Items

Applicant	North Central Ohio Computer Cooperative
Billed Entity Number	154342

471 Application Number	250882
Funding Request Number	628101

471 Application Number	248224
Funding Request Number	603992

471 Application Number	226381
Funding Request Number	550983

471 Application Number	257003
Funding Request Number	648325

Letter of Appeal
Page Three
April 10, 2003

Backaround Information

The North Central Ohio Computer Cooperative (NCOCC) is located in Mansfield, Ohio. NCOCC has served its member schools since the mid-1980s as an Ohio Department of Education designated consortium. NCOCC has been participating in the FCC's E-Rate Program since its inception in Funding Year 1998. NCOCC's participating school entities have received the following funding in previous years as a result of NCOCC's consortium application efforts:

Funding Year 1998	\$50,764.60
Funding Year 1999	\$39,915.38
Funding Year 2000	\$96,046.92

Basis of Appeal

The Funding Commitment Decision Letters for all four of the above FRN's stated the explanation for denial as

“Consortium leader has failed to provide evidence of authority to file forms 471 on behalf of, or evidence of the membership of, a substantial number of the members included in this consortium.”

NCOCC successfully filed the Form 471 Application and began the Program Integrity Review process in February, 2001. NCOCC responded to Ms. Pat Von Engel's requests with the appropriate documents on the following dates:

February 27, 2001
April 10, 2001
April 11, 2001
April 16, 2001
April 17, 2001

NCOCC's responses were primarily to verify building information for the National Free and Reduced Lunch Program for discount verifications. Ms. Von Engel indicated that each of our responses satisfied her requests.

On March 28, 2001, NCOCC received a request from Mr. Richard Warren, PIA, requesting the following documentation that establishes NCOCC **as the consortium leader**. His request read as follows:

“The evidence that establishes a relationship may be in the form of letters of agency, project agreements, purchase orders, letter agreements, etc. Whatever

the form of the document, it should contain the following:

- **Name of the consortium leader**
- **Name of the participant**
- **Signature of an official who works for the participant**
- **Dates that indicate that the agreement is/was/will be in effect either during the application process or the actual funding year”**

NCOCC responded with documents utilized by the Ohio Department of Education (ODE) to substantiate a school's consortium membership in NCOCC. These documents are Form 5NP, Form 4A, Form 4C, respectively. The Form 5NP has been utilized by ODE since 1996 to certify for ODE the non-public school entities participating in NCOCC's services. Forms 4A and 4C work in concert to certify for ODE the public school entities participating in NCOCC's services. These forms have been utilized by ODE since the 1980s. The SLD can verify the use of these forms by contacting Mr. Jim Daubenmire, Ohio Department of Education, at 614.466.7000. The superintendent is required to sign the 4C every year to establish membership. These forms include the elements cited in Mr. Warren's request. NCOCC responded to Mr. Warren's request twice—on March 28, 2001, with the aforementioned forms for 2000 and on May 2, 2001, with the same forms for 2001.

I am also enclosing additional documentation that is required of the school entities for participation in the E-Rate Program. This documentation is collected by NCOCC as the consortium leader. It includes:

- Certification of National Free and Reduced Lunch Program numbers on school letterhead
- Resolution of Compliance to the Children's Internet Protection Act
- Form 479 – Certification by Administrative Authority to Billed Entity of Compliance with the Children's Internet Protection Act

Summary of Appeal

NCOCC is requesting the Appeal Board overturn the “denial of funding” for all FRN's on the following basis:

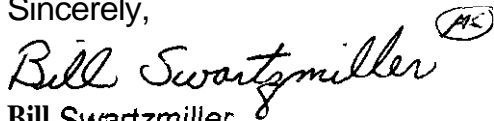
- The overwhelming evidence provided by the school entities substantiating **NCOCC** as the consortium leader.
- The use of official Ohio Department of Education consortium forms as evidence of consortium leadership.

Letter of Appeal
Page Five
April 10, 2003

- In the absence of an official SLD consortium membership form, NCOCC believes it fulfilled the requirements of being a consortium leader by providing official documentation in a form that contained all the required elements requested by Mr. Warren.

NCOCC believes strongly in the E-Rate Program and its benefits to students. I appreciate your consideration of this appeal and look forward to your decision.

Sincerely,



Bill Swartzmiller
Executive Director
North Central Ohio Computer Cooperative

Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554